

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863 FAX (831) 427-4877
www.coastal.ca.gov

Th14

CENTRAL COAST DISTRICT (SANTA CRUZ) DEPUTY DIRECTOR'S REPORT

For the

July Meeting of the California Coastal Commission

MEMORANDUM

Date: July 10, 2008

TO: Commissioners and Interested Parties
FROM: Charles Lester, Central Coast District Deputy Director
SUBJECT: *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the Central Coast District Office for the July 10, 2008 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Central Coast District.

REGULAR WAIVERS

1. 3-08-032-W Don & Jenn Wilkerson (Pacific Grove, Monterey County)

DE MINIMIS WAIVERS

1. 3-08-033-W Tracy Gibbons (Pacific Grove, Monterey County)

TOTAL OF 2 ITEMS

DETAIL OF ATTACHED MATERIALS

REPORT OF REGULAR WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 13250(c) and/or Section 13253(c) of the California Code of Regulations.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-08-032-W Don & Jenn Wilkerson	First and second-story additions and remodel of an existing single family residence.	118 Caledonia Street, Pacific Grove (Monterey County)

REPORT OF DE MINIMIS WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-08-033-W Tracy Gibbons	Lot line adjustment between two adjacent parcels resulting in two parcels of 4,002 square feet and 4,074 square feet.	182 Central Avenue (lots 7 and 8), Pacific Grove (Monterey County)

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**NOTICE OF PROPOSED PERMIT WAIVER**

Date: June 27, 2008
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DCarl*
Mike Watson, Coastal Planner *MW*
Subject: Coastal Development Permit (CDP) Waiver 3-08-032-W
Applicants: Don & Jenn Wilkerson

Proposed Development

Remodel and addition to an existing historic single family residence located in the Pacific Grove Retreat at 118 Caledonia Street in the City of Pacific Grove.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13250 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The project is located more than one block inland of the Pacific Grove shoreline, and thus one-block inland of the recreational trail and main public access thoroughfare that winds along the Pacific Grove bluffs. The proposed residence would be compatible with the size, scale, and aesthetics of the residential neighborhood in which it is located, and it includes drainage BMPs to reduce storm water runoff and remove contaminants prior to conveyance off-site. The proposed changes were reviewed and a Historic Preservation Permit granted by the City's Architectural Review Board to ensure that historic resources would be protected. The project has no potential for adverse effects on coastal resources and is consistent with Chapter 3 of the Coastal Act.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Thursday, July 10, 2008, in San Luis Obispo. If these Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Mike Watson in the Central Coast District office.



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NOTICE OF PROPOSED PERMIT WAIVER

Date: June 27, 2008
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DC*
Mike Watson, Coastal Planner *MW*
Subject: Coastal Development Permit (CDP) Waiver 3-08-033-W
Applicant: Tracy Gibbons

Proposed Development

Applicant proposes to adjust the lot lines between two contiguous residentially zoned properties at 182 Central Avenue in the City of Pacific Grove.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The proposed lot line adjustment would bring the lots into conformance with the City's minimum building site area requirements. The project is located in the City's R-4 zone district more than one block inland of the Pacific Grove shoreline and the public access recreational trail. The site is located within the urban services boundary within an existing developed neighborhood. The project has no potential for adverse effects on coastal resources and is consistent with Chapter 3 of the Coastal Act.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Thursday, July 10, 2008, in San Luis Obispo. If four Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Mike Watson in the Central Coast District office.



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July 10, 2008

To: Commissioners and Interested Parties

From: Charles Lester, Senior Deputy Director, Central Coast District

Re: Additional Information for Commission Meeting Thursday, July 10, 2008

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
Th16a, SLO-MAJ-2-04 Pt. 2	San Luis Obispo County	Staff Report Addendum	1
		Correspondence	5
Th16.5a, A-3-MRB-08-031	Equilon Enterprises	Correspondence	7
Th16b, SLO-MAJ-2-04 Pt. 3	San Luis Obispo County	Staff Report Addendum	25
		Correspondence	27

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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Th16a

Prepared July 8, 2008 (for July 10, 2008 hearing)

To: Coastal Commissioners and Interested Persons

From: Charles Lester, District Director
Jonathan Bishop, Coastal Program Analyst

Subject: STAFF REPORT ADDENDUM for Th16a SLO-MAJ-2-04 Part 2 (Estero Area Plan Update).

As described in the June 27, 2008 staff report, San Luis Obispo County proposes to amend its Local Coastal Program by updating the Estero Area Plan component of the Land Use Plan (LUP).

Since the staff report was completed, the County of San Luis Obispo and other interested parties have suggested changes to the recommendations. In response to these comments, staff has revised a number of the suggested modifications and has supplemented the staff recommendation with additional findings where necessary. The changes are shown below as follows (new text shown with double underlines; deletions are shown with ~~double strike-throughs~~):

I. Changes to Suggested Modifications

1) Delete second to last bullet in Summary of Staff Recommendation.

- ~~Strengthening archaeological resource protection standards through required coordination and consultation with appropriate Native American representatives.~~

2) Suggested Modification 21

pg. 5-20. Improvement of Publicly-Owned Sites. Delete bullet and reference on Figure 5-2

3) Suggested Modification 38

B. Bluff Setbacks. The bluff setback is to be determined by the engineering geology analysis required in A.1. above adequate to withstand bluff erosion and wave action for a period of 100 years. In no case shall bluff setbacks be less than 25 feet. Alteration or additions to existing non-conforming development that is non-conforming with respect to bluff setbacks that equals or exceeds 50 percent of the size of the existing structure, on a cumulative basis beginning July 11, 2007, shall not be authorized unless the entire structure is brought into conformance with this setback requirement and all other policies and standards of the LCP. On parcels with legally established shoreline protective devices, the setback distance may account for the additional stability provided by the permitted seawall, based on its existing design, condition, and routine repair and maintenance that maintain the seawall's approved design life. Expansion and/or other alteration to the seawall shall not be factored into setback calculations.



California Coastal Commission

July 2008 Meeting in San Luis Obispo

Staff: J.Bishop Approved by: *CFL*

SLO-MAJ-2-04 Part 2 (Estero Area Plan Update) addendum 7.8.2008.doc

4) Add new Areawide Standard J on page 7-10 regarding water supply offsets.

J. New development using water from the Los Osos Groundwater Basin shall be required to offset water use within the Los Osos Groundwater Basin and shall not result in a net increase in water use.

5) Add new figure of the Los Osos Groundwater Basin to accompany new Areawide Standard J.

6) Suggested Modification 41

D. Highway 1 and Los Osos Valley Road as shown on Figure 7-7 in the rural portions of the Planning Area is a are Scenic Corridors. All applicable standards in the Coastal Zone Land use Ordinance apply (e.g., those in Chapter 23.4).

7) Figure 7-8 Highway 1 – Cayucos Critical Viewshed. Add the following text to Figure 7-8:

This map is for reference purposes only and doesn't depict all potentially visible areas.

8) Suggested Modification 42 - Delete 3.a.1 (Landscape Requirements) in its entirety.

~~(1) Landscape Requirements. All new development within the Los Osos urban reserve line that requires a land use permit or coastal development permit and that results in a site disturbance of 500 square feet or more shall comply with the following when landscaping. When a landscaping plan is required by the Coastal Zone Land Use Ordinance, the following requirements shall be incorporated into the plan.~~

~~(i) An area that is landscaped with native vegetation shall be provided.~~

~~(ii) Non-sandy soils or soil amendments that would be detrimental to coastal scrub vegetation shall not be used.~~

~~(iii) Native plants (Los Osos Species) shall be used, though not exclusively.~~

~~(iv) Non-native plants that change the soil in a manner detrimental to the Morro shoulderband snail (e.g. eucalyptus) are prohibited. Invasive plants (e.g. certain grasses) shall be avoided.~~

~~(v) The use of molluscicides is prohibited~~

9) Suggested Modification 43 – Modify Standard 6 on pages 7-25 and 7-26.

(6) Site Disturbance. This standard is intended to provide maximum preservation of Los Osos Dune Sands and its associated habitat of rare and endangered species. ~~The maximum amount of site disturbance specified in subsection b(6)(i) of this standard shall be reduced by the review authority to the extent necessary to~~ New development causing site disturbance shall ensure protection of habitat for Morro manzanita, Indian Knob mountainbalm, or any other rare or endangered species determined to be present on the site. However, limitations on the amount of site disturbance shall be consistent with applicable legal requirements to allow reasonable use of the site.



Site disturbance includes disturbance of the following areas ~~in connection with non-agricultural activities~~: areas disturbed by structures, roads, utility trenching, and pavement; areas on which grading or removal of native vegetation occurs. Site disturbance does not include activities that are consistent with the restoration and maintenance of native plant habitats as guaranteed by project approval.

~~(i) Limitation on Site Disturbance. Where it is not feasible to locate a building site without causing adverse impacts to Los Osos Dune Sands, its associated habitat of rare and endangered species, and the required setbacks therefrom, as verified by the required biological report, the maximum total, aggregate amount of site disturbance as necessary to avoid a takings of private property, shall be up to as follows:~~

~~(a) Sites Less Than or Equal to One Acre in Area: 10,000 square feet.~~

~~(b) Sites Greater Than One Acre in Area: 20,000 square feet.~~

~~(ii) Adjustment of Limitation on Site Disturbance. The limitation on site disturbance in preceding Section b(6)(i) may be adjusted through Minor Use Permit provided that the following findings can be made:~~

~~(a) An adjustment is necessary to allow reasonable use of the site, or compliance with the limitations on site disturbance would cause more environmental damage on balance than an alternative that exceeds those limitations; and~~

~~(b) Alternative designs that comply with the limitations on site disturbance are infeasible or more environmentally damaging; and~~

~~(c) Adverse environmental impacts are mitigated to the maximum extent feasible; and~~

~~(d) The adjustment is the minimum amount necessary to allow reasonable use of the site.~~

10) Suggested Modification 51

pg. 7-53. North of Veterans Building. Modify and move to Recreation (REC) standard A.3 on pg. 7-59:

11) Suggested Modification 54

Map M1

1) AG to RL – ~~Maintain AG.~~ Add new development standard that limits residential density on this parcel to one unit

4) AG to RL – ~~Maintain AG.~~ Add new development standard that prohibits residential development on the portion of the property within the Coastal Zone.

II. Supplemental Findings

1) Add the following ESHA finding to paragraph 4 on page 33 of the staff report:

Landscaping standards included in the submittal that are intended to address urban development within the Los Osos Dune Sands SRA should be deleted because the urban area is not before the Commission.



Similarly, prescribing definite square foot limitations on site disturbance within Los Osos Dune Sands ESHA under a takings scenario is not appropriate at this time and should be deleted (see Modification 42).

2) Modify Findings for Proposed Land Use Changes on pg. 30 of the staff report:

26 acres along Highway 41 - Map M1 and M5

~~Changing the Land Use designation on this site is inconsistent with the Coastal Act.~~ According to the applicant's representative, the purpose of this land use designation change is to set up a future subdivision for estate planning purposes. A detailed agricultural viability report has not been provided by the County. While not prime agricultural soils, the EIR describes this land as moderately suitable for grazing operations. Cumulative impacts are also a concern as this plan would establish a baseline for additional residential uses on a site with some history of agriculture. To address the concern of increased residential densities on agricultural land in this case, and to not prejudice future determinations, a new standard specific to this parcel is needed that prohibits residential development within the coastal zone (see Modification 54).

22 acres at Clark Valley Road – Map M1 and M2

The LUP proposes to change the land use designation of an undeveloped 22-acre site at the terminus of Clark Valley road. Topography is steep and hillsides are heavily vegetated. While the County makes a strong case that agricultural production potential on the site is poor, this alone does not allow for conversion to non-agricultural uses under the Coastal Act. Concerns are raised over the cumulative impacts of conversion of agricultural lands. Changing the land use category to Rural Lands will establish a potential for increased residential development potentially in conflict with adjacent agricultural uses. Agricultural lands can also help maintain a rural open space character of an area. Impacts of non-agricultural development on views and landform alteration may also be exacerbated by a zoning change that effectively doubles the residential density on the parcel. To address this concern in this case, and to not prejudice future determinations, a new standard specific to this parcel is needed that limits development to a single residential unit (see Modification 54).



Th 16a

July 9, 2008

California Coastal Commission
725 Front Street Suite 300
Santa Cruz, California 95060

RECEIVED

JUL 07 2008

Dear Commissioners:

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

I am writing in support of the proposed land use designation change depicted on the M5 of the addenda to the Estero Plan update that will be before you during your session in San Luis Obispo from July 9 through July 11, 2008.

The 30 acre portion that was erroneously zoned "agriculture" in the 1970's should have had the same "rural lands" zoning designation as the remaining 285 acres in the parcel.

I strongly urge you to correct this mistake by supporting our San Luis Obispo County's Planning Staff's and our Board of Supervisors' recommendation by voting yes on this land use designation change.

Thank You,

Jinda Johns

*J. Johns
86 O'Connor Way
San Luis Obispo, Ca
93405*

Th16a

July 9, 2008

California Coastal Commission
725 Front Street Suite 300
Santa Cruz, California 95060

Dear Commissioners:

I am writing in support of the proposed land use designation change depicted on the M5 of the addenda to the Estero Plan update that will be before you during your session in San Luis Obispo from July 9 through July 11, 2008.

The 30 acre portion that was erroneously zoned "agriculture" in the 1970's should have had the same "rural lands" zoning designation as the remaining 285 acres in the parcel.

I strongly urge you to correct this mistake by supporting our San Luis Obispo County's Planning Staff's and our Board of Supervisors' recommendation by voting yes on this land use designation change.

Thank You,

Larry W Zimmerman
Judy A. Zimmerman



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JUN 30 2008

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RECEIVED**Michael Watson**

JUL 07 2008

From: Linda Stedjee [lstedjee@charter.net]**Sent:** Sunday, July 06, 2008 9:58 AM**To:** Michael Watson**Cc:** Dan Carl; Marla Jo Bruton**Subject:** More evidence supporting our assertions regarding the MtBE remediation at 1840 Main in Morro BayCALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Hello,

Marla Jo Bruton and Richard Sadowski have been going through boxes of documents, obtained through Public Records Act requests, at the Morro Bay Public Services Department, and have unearthed even more evidence that supports our case.

1. A Coastal Development Permit was issued for the original remediation work. This seems to us to support the conclusion that the CCC would have jurisdiction over closure of the monitoring wells.

In a letter dated May 29, 2000, from Greg Fuz, Director of Public Services, Morro Bay, to Jeffrey R. Maxwell of Miller Brooks Environmental, Huntington Beach, we found these statements:

- a. "Enclosed is Emergency Coastal Development Permit CDP-59-00E..."
- b. "We agree that it is unfortunate that the investigation work had to be stopped because of the need for a Coastal Development Permit and an archeological survey..."

2. There is further evidence of invalidity of RWQCB claims that failure to detect MtBE in the drinking water wells means nitrates from sewage could not have migrated there:

As previously stated in our document for the Commissioners, titled, "Additional Input for Commissioners: Response to Staff Report", MtBE, by February, 2002, detectable MtBE was found in only 10 of the 68 monitoring wells.

The numbers continued to decline. A June 18, 2003 document on groundwater sampling results, prepared by remediation consultants Miller Brooks Environmental, of Huntington Beach, states that as of May 30, 2003, there was full remediation shutdown.

To us, this means that as of that date, the problem was considered to have been resolved, and all danger of well contamination eliminated. This also means to us that if nitrates were migrating to the wells from the vicinity of 1840 Main, or from any of the various monitoring well locations, one would NOT expect any MtBE that might have been present at those locations to migrate with the nitrates and appear in the wells.

What was the status as of November, 2002, when the wells were pumping? Clearly, it the numbers were somewhere between what they were in February, 2002, and May, 17, 2003, when the consultants did the last sampling before remediation shutdown.

We believe that by November, 2002, the MtBE levels already were so low that it would have been unlikely that detectable amounts of MtBE would have reached the wells during pumping.

In addition, we found a letter, dated December 22, 1999, Roger Briggs, RWQCB to Greg Fuz, Interim Morro Bay City Manager, regarding MtBE and Morro Bay drinking water wells: In the letter, it is stated, "Interim testing may be prudent in the event that the City of Morro Bay intends to utilize the municipal well field in the future". This would seem to indicate that no testing of the wells for MtBE had been performed prior to that date. If you are not testing for MtBE, you will not find it, and this contaminant is not one of the "standard" items listed in Morro Bay's Consumer Confidence Reports. As previously noted, between from 2000 through much of 2002, work to control the MtBE plume would have prevented both nitrates and MtBE from reaching the wells.

3. There is evidence of the potential for the drilling of monitoring wells to create paths for cross-contamination of aquifers. Interesting references in a document prepared by the remediation consultants seem to indicate that the well "clusters", (like 10A, B, C), were set up to monitor at different depths. We found these statements in the document:

a. "Groundwater levels in the three wells of each well cluster differ by varying amounts, indicating varying hydraulic connections between the layers"

b. "For example, the layer screened by well MW9A is separated by a silty clayey layer from the clayey gravel screened in the lower portions of wells MB-9b and MW-9C. In this area, the zone screened by well MW-9A is less permeable than the zone screened by wells MW-9B and MW-9C.

This would seem to indicate that in some areas, aquifers are "stacked" above one another, and punching a hole down through them could allow contaminants from the upper levels to travel to lower ones – including sewage in groundwater.

4. There is further evidence that Morro Bay City staff and Cayucos Sanitary District staff knew, and had known for awhile of serious problems with the sewer.

In a letter, dated November 18, 1999, from David Phillips of the Cayucos Sanitary District to Bob Hendrix, Morro Bay City Manager, the following statement is made regarding the trunk sewer along Hwy 41, "The pipeline damage that was apparent in past video inspections is the likely point of introduction".

Pipeline damage apparent in past video inspections? Please note the use of the term "past", and the fact that the term "inspections" is plural. We believe this statement provides further support to our contention that the sewer lines were not maintained, even though their seriously dilapidated condition was known.

I would also like to note a concern I have regarding communications from the Central Coast RWQCB. I must ask whether it is possible for those who were involved in the 1840 Main remediation to be completely objective in analyzing evidence related to the source of the nitrates in the drinking water wells. It is my understanding that the remediation effort was done under the direction of the RWQCB, and that they put a great deal of time and effort into the project.

Clearly, it would be extremely upsetting for them if it were conclusively proven that the remediation effort, done in an effort to protect the quality of our water, ended up causing a new problem – nitrate pollution. No one likes to think that his/her work is flawed, particularly when a sincere effort has been made to do good work.

The situation reminds me somewhat of a time when I was director of a software quality assurance department. The programmers NEVER accepted my department's statements that their programs contained bugs, and they resisted accepting the idea until WE provided them with conclusive, irrefutable proof. Even then, some of them argued. This in no way implies that they were bad people, or were shirking responsibility. It was just so hard for them to accept that one of their "babies" was not perfect. I believe this is just human nature.

Given the arguments the RWQCB staff have been offering that agriculture, not sewage, has caused the well pollution (arguments that I frankly believe are rather strange and quite illogical) I wonder if we are looking at a similar situation. While I would certainly not suggest that anyone is being deliberately deceptive or misleading, I think it is possible that some people are still looking very hard for any possible reason to believe that the remediation is not the cause of the nitrate problem. Perhaps independent testing by a party not affiliated in any way with the RWQCB or the City of Morro Bay or Cleath and Associates is the answer.

Linda Stedjee

Th16.5a

RECEIVED

JUL 07 2008

July 7, 2008

Mr. Harvey Packard
California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place
San Luis Obispo, California, 93401

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Dear Mr. Packard,

Thank you for your response, dated July 1, 2008, to our April 2008 report, "The 'Morro Basin Nitrate Study': Issues and Concerns". We appreciate the time that you and your colleagues took to review and comment on our findings.

We must, however, respectfully disagree with all of the conclusions presented in your letter. Reasons for our disagreement are explained below.

Cleath Report examination of nitrate isotopes (ref. your letter, page 1, paragraph 3)

You note that the consultants analyzed isotope data from water from the four wells at the Hwy.1 well field, and compared them to literature values. You further state that although the results are inconclusive, the isotopic study demonstrates Cleath and Associates' diligence in investigating any potential sources of nitrate.

As you may recall from our report and other communications, we independently followed the same procedure as did the consultants. We found that the isotopic signatures of the well water were nearly an exact match to values for sewage as documented in another study, and significantly outside the range for the isotopic signature of fertilizers:

McQuillan Study Values

sewage from septic systems:	7.8 to 12.1
sewage at a primary sewage plant:	7.2 to 12.1

Morro Basin Well Values:

7.1 to 10.0

**Standard Values for
Commercial Fertilizer:**

- 4 to + 4

We agree with you that the results are inconclusive, but it is our position that they are only inconclusive because insufficient testing was done. We hold to our position that the data clearly indicates a strong likelihood that it is sewage, not fertilizer, that is contaminating the wells. We find it interesting that although samples were taken at a time when nitrate concentrations were relatively low, the isotope signature of those nitrates that were present is still consistent with that expected for sewage.

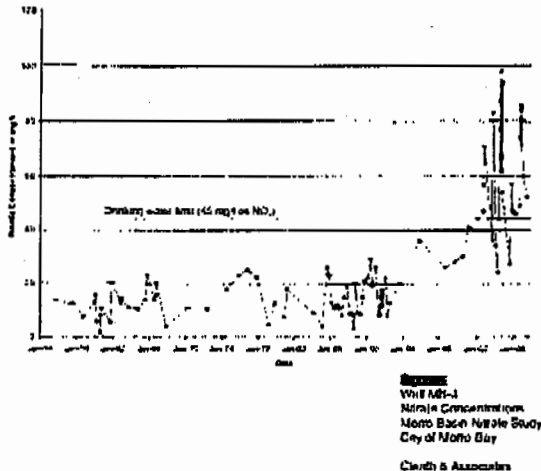
As to diligence, we believe that the consultants exercised all possible diligence given budgetary and other constraints we believe were imposed by the City of Morro Bay. However, we believe that comparing the isotopic signature of the well water to literature values does not constitute correct scientific procedure.

As we have stated numerous times, we would like to see isotope values from the wells compared to values from samples actually collected from Morro Bay's wastewater collection lines in the vicinity of the 1840 Main Street site, and from the creek water that the consultants allege is the source of the nitrates. That, in our opinion, would constitute due diligence with regard to the isotope studies.

General Chemical Signatures of Groundwater and Wastewater; Mixing Calculations (ref. your letter, page 2, paragraph 1)

You state that the Cleath report analysis, including the Piper diagrams, such as figure 12, show a clear separation between groundwater and waste water. You note that "any appreciable mixing of wastewater with native groundwater produced by the supply wells would result in the supply well data plotting between wastewater and groundwater field in the cation Piper diagram...which is not the case"

The problem we have with your conclusion in this case is related to timing. The well water samples were gathered and tested in August and September. (see Cleath study Appendix E, Laboratory Reports for Ground Water and Surface Water Samples.)



The nitrate concentration spikes occur during November, as shown by this chart of nitrate concentration patterns. It is then that we believe that sewage is being pulled into the wells by the pumping action. Once the wells stop pumping, nitrate levels drop significantly. We believe it is clear that once that happens, other components of sewage in the wells are also dramatically reduced.

It is our position, therefore, that the samples were gathered at the wrong time, and thus their analysis provides absolutely no proof that sewage is not the primary well water contaminant. We believe it is clear that samples gathered in August and September, many months after the last time the wells were pumping, would not show evidence of the presence of significant amounts of sewage.

In summary, it is our position that the data presented in the Piper diagrams is meaningless, because the samples of well water were not gathered at the correct time; only samples gathered during the November period when the wells are in use will give a meaningful result.

Change in Nitrate Concentrations in the Morro Valley and Well Water (ref. your letter, page 2, paragraph 2)

You state that "The Cleath report provides another direct line of evidence that agricultural sources are the primary source of nitrate by demonstrating that through time in the lower Morro Valley groundwater and groundwater produced from the supply wells". You refer to nitrate concentrations tested in lower Morro Valley monitoring wells in December, 1980, and compare them to samples collected in August, 2007, noting that the August, 2007 concentrations are significantly higher, and conclude that, "These concentration changes through time demonstrate a direct correlation between the nitrate concentrations in the lower Morro Valley groundwater and concentrations found in groundwater produced from the supply wells"

We disagree with your conclusion for two major reasons:

1. Again, we have a significant timing issue. In order to do a valid comparison between two samples, one must ensure that all possible variables that might influence the results have been considered, and that there is no possibility that those variables could affect the results; render them invalid. We will focus here on what we consider the major variable that does not appear to be covered in your analysis.

The 2007 samples were gathered in August, a time when we would expect to find more nitrates from fertilizer, due to the timing of crop fertilization cycles. Crops are generally fertilized during the growing cycle, which, depending on the crop, generally extends from Spring through early Fall. August is also a dry month with little to no precipitation. Therefore, any dilution of nitrates in the groundwater would be expected to come solely from irrigation.

The 1980 samples were gathered in December. This would be some time after any significant applications of fertilizer, AND well into the rainy season, meaning that any nitrates not used by the growing crops would be diluted by precipitation that has soaked into the soil.

It is our position, therefore, that comparison of the lower Morro Valley groundwater nitrate concentrations from the months of August and December for ANY years is invalid, and can essentially be described as "comparing apples to oranges". Please note that this is just one variable not covered in the analysis

provided. Others would include location of sampling, activities in the area immediately prior to sampling, usage of the area and possible changes in that usage over time.

2. Even if we ignore the very obvious timing issue described above, it is our position that there is clearly no demonstrated correlation between the alleged nitrate increases in the lower Morro Valley groundwater and the **very sudden spikes in well water nitrate concentrations, which occur only in November, when the wells are pumping.** There is absolutely no known change in farming operations that could account for that pattern. The sudden beginning of the spikes, in 2002, does, however, correlate VERY closely to the timing of the MtBE remediation work at 1840 Main Street.

References to Amick and Burgess Study (ref. your letter, page 2, paragraph 3)

In reference to the study, "Exfiltration in Sewer Systems", you state that you believe that the Cleath report *"accurately applies the information to the Morro Basin nitrate source contamination study."*

Once again, we find ourselves in disagreement. On pages 16 and 17 of the Cleath report, it is stated,

"Despite a hydraulic potential for exfiltration along Main Street when the City well field is pumping, gravity sewer leaks quickly become plugged by sewer film and settleable solids in the sewage, theoretically reaching steady-state leakage rates in approximately one hour. A research study conducted at several locations in Germany, where sewer systems are generally older and in poor condition, showed that when pressure heads are below the sewer pipe crown (typical for gravity sewers) exfiltration rates were minimal (Amick and Burgess, 2000)"

Here is the complete statement, from the Amick and Burgess study, page 17 (study available online at <http://www.epa.gov/nrmrl/pubs/600r01034/600r01034.pdf>):

"At a pressure head below the sewer crown, which is typically the case in gravity flow sewer lines, exfiltration rates were minimal. At a pressure head of one pipe diameter, the exfiltration rate increased dramatically, to more than 26 gal/hour (gph) per joint in some segments. This high leakage rate can, in part, be attributed to the generally poor condition of the old sewer systems. A linear correlation between pressure head and exfiltration rate for several types of sewer defects was noted for pressure heads greater than 500 mm (20 inches). It was also noted that at lower flows and pressure heads, the exfiltration rate decreases exponentially, most likely from self-sealing from sewer film and settleable solids in the sewage. If the flow and pressure head increases, however, this self-sealing property is broken and the exfiltration rate increases rapidly."
(emphasis ours)

On page 25 of their report, Amick and Burgess state, *"Areas with significant portions of the system above, but in close proximity to, the groundwater table are probably at greatest risk."* Note that most of Morro Bay's sewer lines do, indeed, lie above, but in close proximity to the groundwater table.

We believe it is clear that the statement in the Cleath report was taken out of context, and that **the complete statement from the Amick and Burgess study has a meaning significantly different than that of the portion published in the Cleath study.** We have attributed their failure to provide the complete quote to the likelihood that they obtained the quote from a source other than the original report, as we have seen the out-of-context portion of the statement elsewhere.

"Pro-active" Maintenance of the Morro Bay Wastewater Collections System (ref. your letter, page 3, paragraph 2)

You note that the City of Morro Bay is required to comply with the State's General Waste Discharger Requirements for Sanitary Sewer Systems, and further state that the City is *"proactively operating and maintaining its collections system to correct sanitary sewer system deficiencies"*.

We are indeed gratified that the City is finally taking steps to correct the very serious health and safety risks posed by the seriously dilapidated condition of its sewer lines; specifically the exfiltration of sewage into our soil

and groundwater. In fact, we have been encouraging the City to do so for years. We must point out, however, that it appears to have taken the passage of a State law to influence them to begin corrective action. We do not consider this a sign that the City is, or has been, in any way pro-active in its approach.

Videotaped inspections of the lines have long demonstrated major defects in the lines. **We found defects in one videotaped inspection that also existed in another inspection of the same section of line – done seven years before.**

You also state, *"For example, the City's main sewer line was relined in the summer of 2001 to prevent infiltration/exfiltration. If there are current deficiencies in the liner, the expected rate of infiltration/exfiltration would be minimal, thus thus yielding a minimal potential for nitrate contamination"*. Again, we do not consider this evidence of a pro-active approach taken by the City, nor do we consider it a sign that significant exfiltration is not occurring in the Morro Bay sewer system.

We believe you are referring to the slip lining of the Highway 41 /Atascadero Road line, owned jointly by Cayucos and Morro Bay, that runs to the Wastewater Treatment Plant. **We would not have described this line as "the City's main sewer line", and have never contended that it was a source of exfiltrated sewage, as this is one of the very few lines that lies below the water table. Furthermore, this is not a particularly long line, and it comprises only a VERY small portion of the total system.**

We believe that the major source of the exfiltrated sewage is most likely the Main Street trunk line, a much longer stretch of line that is in deplorable condition, with numerous major cracks, pipe misalignments, and separations that clearly provide the opportunity for major exfiltration. That line has NOT been relined.

With regard to the Hwy 41/Atascadero Road line, please consider this quote from a letter dated November 18, 1999, from David Phillips of the Cayucos Sanitary District to Bob Hendrix, Morro Bay City Manager, regarding the sewer line along Hwy. 41 (Atascadero Road),

"The pipeline damage that was apparent in past video inspections is the likely point of introduction".

During the emergency repair of the adjacent portion of this line, the District requested that we proceed to extend the repair of this line to the intersection of North Main Street. I believe that we went so far as to commission and complete a design for that replacement. The city has chosen not to proceed with the work."

The emergency repair referred to is, of course, the one done after it was determined that MtBE was entering the Wastewater Treatment Plant through this line, because it was in such poor condition that large amounts of MtBE-contaminated groundwater were infiltrating it. **Please note the statement that the damage was apparent in past video inspections. Yet, nothing was done until there was an emergency that forced action.**

Please also consider these quotes from a Tribune article, "MtBE Complicates Task as Towns Mull Aging Sewer", dated May 24, 2000:

"Morro Bay and Cayucos are joint owners of a sewer plant, and the line being inundated with ground water serves both communities." and, "Two years ago the line collapsed in an area adjacent to the City's desalination plant and had to be replaced under an emergency declaration"

This does not sound to us like a glowing example of pro-active maintenance.

In conclusion, we believe that no one currently has conclusive evidence of the true source of the nitrates, simply because the necessary testing to establish that source has not yet been done. While we would agree that we do not have sufficient evidence or references to PROVE the suggestion that sewage is the primary source of the well contamination, we believe we have very strong evidence that points in that direction. We further believe that the Cleath study has not provided sufficient evidence or references pointing to a likelihood that fertilizer is the culprit. As previously noted, we believe that additional testing is essential, and should be completed as soon as practicable in order to provide real proof of the cause of the nitrate contamination of our drinking water wells.

Sincerely,

Richard E.T. Sadowski

Marla Jo Bruton

cc: Mike Watson, California Coastal Commission
Members, California State Water Resources Control Board
Members, Morro Bay Public Works Advisory Board
Morro Bay Mayor and City Council Members
Katcho Achadjian, San Luis Obispo County Supervisor
Gita Kapahi, Director of Public Participation
Steve Van Dolan, Deputy District Attorney, San Luis Obispo County

Hello,

I am one of the appellants of the project to close 68 MtBE monitoring wells in Morro Bay. I am also one of a small group of citizens seriously concerned about the ongoing exfiltration of sewage into the soil in our town, its potential risks to health and safety, and its effects on the environment. We have worked hundreds of hours, and spent our personal funds in an effort to document the extent of the problem and to influence local government to take immediate and aggressive measures to fix the problem, but have thus far been unsuccessful. We have nothing to gain from our efforts, aside from a clean, sustainable water supply for our town, and improved water quality in the Bay and ocean.

Recently, a study by Cleath and Associates asserted that agriculture was to blame for the nitrates in our drinking water wells. We believe that in fact, the evidence they provide fails to prove any such connection, and that the evidence is far more indicative of sewage being the nitrate pollution source. We believe that the sewage reached the wells as a direct result of excavations done as part of the MtBE remediation project at 1840 Main in Morro Bay, the site associated with the 68 MtBE monitoring wells to be closed.

I request that the Commissioners carefully read the supplementary material that we, the appellants, have prepared. It is our position that, unfortunately, the Coastal Commission staff were given some misleading and false information, and that information led to their conclusion that there is no substantial issue. We ask that you find that there is a substantial issue, and allow further investigation of this matter before allowing the closeout of the MtBE monitoring wells.

I have been advised by one Commissioner that the supplementary materials, submitted by the appellants to the Santa Cruz office of the CCC, have not yet been delivered. This is a concern due to very short time left before the Coastal Commission meetings in July. Therefore, it was suggested that I directly provide you with electronic copies of the documents. I had initially planned to attach the documents to this email, but am concerned that they may be a bit too large for that, and could take forever to download. I have, therefore, placed them temporarily on the Internet, where you may access them more easily. The files are located at: <http://mbviews.org/CCC/> I have provided both Word and HTML versions of each of the two documents.

Thank you for your time and attention.

Linda Stedjee
lstedjee@charter.net
(805) 771-9254

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Appellant Input for Coastal Commission Appeal No. A-3-MRB-08-031
1840 Main Street, Morro Bay

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COASTAL COMMISSION
CENTRAL COAST AREA

Additional Input for Commissioners: Response to Staff Report

We believe that the CCC was given misleading and, in some cases, false information regarding issues identified in our appeal. We further believe that this false and misleading information was a large part of the basis for the determination that there was no substantial issue. We request that the Commissioners review this information, and find that there is, indeed a substantial issue – the very strong likelihood that MtBE remediation work at 1840 Main breached the aquifer boundary, allowing sewage to contaminate the City's Morro Basin drinking water wells.

Misleading Information on Exfiltration of Sewage

We believe that the following information provided to the CCC, and documented on pages 6 and 7 of the "Appeal Staff Report" is misleading and gives a false and incomplete picture of the sewage exfiltration problem:

"According to the City and the RWQCB, the MtBE issue was first brought about by the detection of MtBE at the City's wastewater treatment facility. MtBE that had leaked from the service station holding tanks was determined to be migrating with the groundwater and entering into the City's waste water infrastructure. This was apparently due to the ambient pressure of the groundwater surrounding the waste water lines being greater than that of the pressure of the effluent passing through the pipelines. Under these conditions, it is unlikely that sewage (and thus nitrates) is moving in the other direction into and contaminating the groundwater." (emphasis ours)

Key facts that counter these allegations are:

1. The line referred to has little or nothing to do with the sewage exfiltration problem, and we have never suggested that it did. MtBE was found to be entering only one line, the one that runs down Atascadero Road, at the southern boundary of the 1840 Main Street site. That line is indeed below the water table, and exfiltration from that line would have been highly unlikely, although possible during surcharge events. This line was repaired in 2000.
2. The primary source of the exfiltrated sewage we believe is contaminating the aquifer is the Main Street trunk line. This line carries sewage not only from North Morro Bay, but from Cayucos as well. It is in a serious state of disrepair, as illustrated in a prior submission to the Commissioners, which included photos of some of the damaged areas. This line lies within a few feet of the western border of the 1840 Main site. It lies above the water table, and in close proximity to it, making sewage exfiltration from the line a serious problem.

We believe that sewage exfiltrated from the Main Street trunk line flows, under the influence of gravity, just as does the sewage that remains inside the line, in a southerly direction along Main Street to the aquifer boundary.

Gross Oversimplification of Nitrate Migration Issues

We believe that the following information provided to the CCC, and documented on page 7 of the "Appeal Staff Report" gives a grossly over-simplified, and thus misleading view of nitrate migration issues, completely ignoring key facts regarding timing of cleanup and timing of the first nitrate level spikes in the drinking water wells.

"With respect to the Appellants claim that the excavation and drilling have breached the aquifer or somehow caused the groundwater to become contaminated with nitrates, the RWQCB explains that both MtBE and nitrates are highly soluble and follow similar hydrological paths. If the Appellants hypothesis were to hold, the tests that showed nitrated in the City's production wells would also be expected to have shown MtBE in the water. However, this was not the case. Although most, if not all of the 68 MtBE monitoring wells identified the presence of MtBE at some point in time, the City production wells never were contaminated with MtBE. Accordingly, it appears unlikely that the remediation effort (i.e. excavation of soils) or drilling of the MtBE monitoring wells breached the aquifer and/or somehow cross-contaminated the City's production wells with nitrates."

The above statement leaves out critical facts including:

1. **By February of 2002, MtBE in an area immediately adjacent to the wells appears to have been completely removed.** In this statement from the staff report for the April 19, 2002 RWQCB meeting, it is clearly stated that no more MTBE is detected at the site (referred to in this quote as the "future Rock'N Burger Property":
"During the February 2002 groundwater sampling event, MTBE was not detected in monitoring wells MW-26A and MW-27A, located on the vacant lot (future Rock'N Burger Property) adjacent to the City's wells. Equiva will continue bi-monthly sampling of groundwater monitoring wells on the Rock'N Burger property."
2. **By February, 2002, Much of the MtBE in most areas also appears to have been successfully removed.** MtBE was detected in only 10 of the 68 monitoring wells. Also in the April 19, 2002 RWQCB meeting staff report are these statements:
"As shown on Attachment 4, MTBE was detected in ten groundwater monitoring wells ranging from 4 micrograms per liter (ppb) to 43 ppb during the February 2002 groundwater-sampling event."
"From mid-December 2000 to March 1, 2002, approximately 16.5 million gallons of groundwater were extracted from wells as part of the groundwater extraction system, treated to 5ppb or less, and discharged to the City's sanitary sewer. In February 2002, Equiva extracted approximately 908,000 gallons of contaminated groundwater"
"From November 2000 through February 2001, the high vac system was operated using wells adjacent to the tank pit. From June through August 2001, a mobile high vac system was used on two offsite well clusters west of Highway 1, located on the down-gradient edge of the MTBE plume in the location shown on Attachment 3."
3. **The City began using the wells again only in November, 2002, after most of the previously contaminated area was clear of MtBE.** With most of the MtBE already gone as early as February, 2002, one would not expect MtBE to migrate with nitrates to the wells the following November. In fact, CCC Staff report exhibit D indicates that in September, 2004, a 14-day groundwater safety pumping test produced absolutely NO MtBE.

We believe, therefore, that allegations that the absence of MtBE in the wells proves there has been no migration of exfiltrated sewage (and thus nitrates) through an aquifer boundary breach are completely without logical and factual bases.

False and Misleading Comments on Isotope Testing

The following information provided to the CCC, and documented on page 7 of the "Appeal Staff Report" gives a false and misleading picture of the nature of isotope testing, and the results of the meaning of tests done on the wells.

"In fact, recent studies indicate that the source of the nitrates appears to be from agricultural runoff. In this respect, the City contracted with Cleath and Associates in December 2007 to identify the source of the nitrates in the water. Isotope tests (a test similar to a DNA test) performed on the water confirmed that the source of the nitrates was fertilizers from agricultural land upland of the well site. The results of the isotope tests, and the absence of fecal coliform and other typical waste water byproducts in the City's production wells appear to indicate that the nitrates did not originate from breaks in the nearby sewer line, as suggested by the Appellants."

The following facts counter these allegations:

1. **Isotope tests are NOT similar to DNA tests in any way.** Nitrogen isotope testing, as done in the City wells, simply determines the ratio of heavy nitrogen (^{15}N) to ^{14}N in the nitrogen atoms present in the nitrate ions. "Heavy" nitrogen has an extra neutron in the nucleus of the atom. It has been determined that the ratio of ^{15}N to ^{14}N in nitrates from fertilizer differs significantly from the ratio found in nitrates from human waste as found in sewage. Isotope testing can be a useful tool, but does not come close to having the same reliability as DNA testing – a completely unrelated and dissimilar process.
2. **Tests performed by Cleath and Associates not only fail to "prove" that the nitrates in the wells are from fertilizer, but give a strong indication that they are from sewage.** As documented in earlier communications, the following table shows the complete mismatch between isotope values for nitrates in the wells and the possible range of isotope values for fertilizer.

Expected Values for Various Sources		Actual Values found in Morro Bay Wells				Actual Value for the Fertilizer Sample Tested
$\delta^{15}\text{N}$ (‰) value ranges defined in "Nitrate Forensics"		$\delta^{15}\text{N}$ (‰) in well MB-3	$\delta^{15}\text{N}$ (‰) in well MB-4	$\delta^{15}\text{N}$ (‰) in well MB-14	$\delta^{15}\text{N}$ (‰) in well MB-15	$\delta^{15}\text{N}$ (‰) in fertilizer sample tested
Commercial fertilizer	-4 to +4	10.0	8.8	7.1	7.9	0.7
Animal or human waste	> +10					
Precipitation	-3					
Organic nitrogen in soil	+4 to +9					

Note that the isotope values from the wells are far outside the range for fertilizer. The only sample tested that lies within that range is fertilizer – NOT well water.

In addition, as noted in prior documents, isotope values from the wells are VERY close to those for sewage, as identified in another study.

McQuillan Study Values

sewage from septic systems: 7.8 to 12.1

sewage at a primary sewage plant: 7.2 to 12.1

Morro Basin Well Values: 7.1 to 10.0

Standard Values for Commercial Fertilizer:

-4 to +4

3. **Unless tests of the well water were performed at the time the wells were pumping, we would not expect to find any significant wastewater products in the water** – all would be expected to be at low levels just as the nitrate concentrations are when pumping is not in progress. Therefore, their absence at significant levels is not, we believe, any indication that sewage is not the primary source of the nitrates in the wells. We WOULD expect to find SOME contaminants of this type, however, at any given time, due to the presence of animals in the area of the creek that feeds the aquifer. Finally, the Cleath study did not include any test data for fecal coliform.

We believe, therefore, that the allegations that agriculture is the source of the nitrates in the wells are completely without any sound factual and logical basis.



California Regional Water Quality Control Board

Central Coast Region



Linda S. Adams
Secretary for
Environmental
Protection

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Arnold Schwarzenegger
Governor

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COASTAL COMMISSION
CENTRAL COAST AREA

July 1, 2008

Mr. Richard Sadowski and Ms. Marla Jo Bruton
490 Java Street
Morro bay, CA 93442

RESPONSE LETTER ADDRESSING THE MORRO BASIN NITRATE STUDY ISSUES AND CONCERNS COMPLAINT, MORRO BAY, SAN LUIS OBISPO COUNTY

Dear Mr. Sadowski and Ms. Bruton:

Central Coast Water Board staff has reviewed your April 2008 *Morro Basin Nitrate Study; Issues and Concerns* complaint letter (complaint) submitted on April 9, 2008. The complaint mainly discusses concerns with the December 7, 2007 *Morro Basin Nitrate Study* by Cleath and Associates (Cleath Report) for the City of Morro Bay. This letter provides our response to your complaint.

Your complaint alleges that sewer line exfiltration is the significant contributing source of nitrate contamination to the City of Morro Bay's (City) supply wells. Several Water Board staff members, with extensive background and expertise in isotope fractionation principles, groundwater geochemistry, groundwater flow and transport, and sewer collection systems, reviewed the Cleath Report and your complaint. It is our opinion that the conclusions of the Cleath Report are well founded and supported by several lines of evidence, resulting in a logical explanation. Water Board staff agrees with the conclusion that the primary source of nitrate contamination in the City's wells is from agricultural practices. This letter discusses specific findings of the Cleath Report that demonstrate justification for the report's conclusions.

The Cleath Report examines several chemical and physical processes to assess the possible sources of nitrate in the City's wells. One process evaluates stable isotope fractionation in groundwater. The Cleath Report thoroughly examines associated literature on nitrate isotopic signatures for various sources of nitrate, and compares isotopic data from groundwater collected from each of the four City wells at the Highway 1 well field to literature values (e.g., Figure 14 of the Cleath Report). The Cleath report concludes that nitrate contamination found in the city's well field is not exclusively a result of nitrate fertilizer applications or exclusively from sewer exfiltration. Although the isotopic study by itself may not be conclusive, it demonstrates Cleath and Associate's diligence in investigating any potential sources of nitrate.

The Cleath Report's analysis of the general chemical signature of local groundwater and wastewater suggests that produced supply well water does not have a significant component of wastewater. The Piper diagrams illustrated in the report (e.g., Figure 12 of the Cleath Report) demonstrate a clear separation in cation composition between groundwater and wastewater, even though there is less separation with the anions. Even with cation exchange, any appreciable mixing of exfiltrating wastewater with native groundwater produced by the supply wells would result in the supply well data plotting between wastewater and groundwater fields in the cation Piper diagram, (e.g., Figure 12 of the Cleath Report), which is not the case. Therefore, the chemical signature of the supply well water indicates that wastewater is not a significant component of the water produced and therefore exfiltration is not likely a source of nitrogen/nitrate.

The Cleath Report provides another more direct line of evidence that agricultural sources are the primary source of nitrate by demonstrating the change in nitrate concentrations through time in the lower Morro Valley groundwater and groundwater produced from the supply wells. Knowledge of groundwater extraction dynamics, and the geometry of the Morro Valley alluvium, groundwater gradient, and well field placement, indicate that the well field produces nearly all of its groundwater from the Morro Valley. There is a direct and measurable correlation between nitrate increases in the Morro Valley and nitrate in water produced from the supply wells. For example, average nitrate concentrations in supply well MB-3 were approximately 15 milligrams per liter (mg/L) (Figure 4 and Appendix F of the Cleath Report) prior to 1992. Nitrate concentrations increased to an average of 60 mg/L after 2002 in that well. According to page 12 of the Cleath Report, nitrate concentrations from the lower Morro Valley monitoring wells (sampled in December 1980) averaged 34 mg/L. Lower Morro Valley groundwater samples collected in August 2007 (Figure 6 of the Cleath Report) averaged approximately 136 mg/L (Figure 6). Therefore, concentrations increased in both the City supply wells and the lower Morro Valley groundwater by a factor of four sometime between 1980 and 2007. Assuming no degradation of nitrate occurs, according to the above concentrations, nitrate from the lower Morro Valley is diluted by the creek and rainfall infiltration by a factor of approximately 2.3 before it is produced by well MB-3. These concentration changes through time demonstrate a direct correlation between the nitrate concentrations in the lower Morro Valley groundwater and concentrations found in groundwater produced from the supply wells.

Cleath and Associates made it apparent, in their discussion of "Sewer Exfiltration (page 16 of the Cleath Report)," that certain conditions (i.e., age of pipe, type of pipe, distance to groundwater levels, and pipe elevation) may provide an opportunity for sewer exfiltration to a minimal extent. Central Coast Water Board staff has reviewed the referenced documentation (*Exfiltration in Sewer Systems*, Amick and Burgess, December 2000) and believes that the Cleath Report accurately applies the information to the Morro Basin nitrate source contamination study. Page 17 of the Cleath Report concludes that exfiltration "is not likely a significant source of nitrate contamination to

July 1, 2008

the City well field." Upon review of your allegations, your report does not provide direct measurable evidence in support of sewer exfiltration being a significant source of nitrate contamination. Water Board staff concurs with Cleath Report's conclusion explaining the sewer exfiltration as less than a significant source of nitrate contamination in the supply well system.

In addition, the City of Morro Bay is required to comply with the Statewide *General Waste Discharger Requirements for Sanitary Sewer Systems, Order No. 2006-0003-DWQ (General WDR)*. The City of Morro Bay obtained enrollment status under this General WDR on January 8, 2007. The General WDR requires the city to develop a sanitary sewer management plan, which specifically includes an operation and maintenance program. The operations and maintenance program is required to include collection system mapping, a preventative maintenance program, a rehabilitation and replacement program, and staff training. Furthermore, the sanitary sewer management plan includes a sanitary sewer evaluation component. The sanitary sewer evaluation identifies and prioritizes deficient portions of the sanitary sewer systems that experience overflows, hydraulic deficiencies, and inflow/infiltration (including exfiltration) issues. Upon preliminary review of the city's sanitary sewer management plan, Central Coast Water Board staff concludes that the city is compliant with General WDR provisions. Additionally, we conclude that the city is proactively operating and maintaining its collections system to correct sanitary sewer system deficiencies. For example, the city's main sewer line was relined the summer of 2001 to prevent infiltration/exfiltration. If there are current deficiencies in the liner, the expected rate of infiltration/exfiltration would be minimal, thus yielding a minimal potential for nitrate contamination.

In summary, Water Board staff concurs with the Cleath Report conclusions based on legitimate lines of evidence. Your complaint letter does not provide sufficient evidence or references to support the suggestion that sewer exfiltration is the primary source of nitrate contamination in the City supply wells. We appreciate your concern regarding nitrate contamination in the Morro Basin. If you have further questions regarding our assessment of the subject reports, please call David LaCaro at (805)-549-38592 or email at dlacaro@waterboards.ca.gov.

Sincerely,


For Roger W. Briggs
Executive Officer

CC:

Mr. Steve von Dohlen
Deputy District Attorney
San Luis Obispo County District Attorney' Office
County Government Center, 4th Floor
San Luis Obispo, CA 93408

Mr. Dylan Wade
City of Morro Bay, Senior Civil Engineer
595 Harbor Street
Morro Bay, CA 93442

Ms. Gita Kapahi
Director of Public Participation
1001 I Street, P.O. Box 100
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Mr. Mike Watson
Coastal Program Analyst
California Coastal Commission – Central
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725 Front Street, Suite 300
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Mr. Spencer Harris
Cleath and Associates
1390 Oceanaire Drive
San Luis Obispo, CA 93405

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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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Th16b

Prepared July 8, 2008 (for July 10, 2008 hearing)

To: Coastal Commissioners and Interested Persons

From: Charles Lester, District Director
Jonathan Bishop, Coastal Program Analyst

Subject: STAFF REPORT ADDENDUM for Th16b SLO-MAJ-2-04 Part 3 (CZLUO Amendment).

As described in the June 27, 2008 staff report, San Luis Obispo County proposes to amend its Local Coastal Program by updating the Coastal Zone Land Use Ordinance (CZLUO) or Implementation Plan (IP).

Since the staff report was completed, the County of San Luis Obispo and other interested parties have suggested minor changes to the recommendations. In response to these comments, staff has made modifications to the suggested modifications. The changes are shown below as follows (new text shown with double underlines; deletions are shown with ~~double strike-throughs~~):

I. Changes to Suggested Modifications

1) Suggested Modification 1 – Keep e(1)(iii) but modify. Modify e(1)(v).

iii. Incidental Public services and utilities in Wetlands. Essential incidental public services and utilities pursuant to ESHA Policy 13 and CZLUO Section 23.07.172(e). such as Highway One, which cannot be feasibly be relocated elsewhere and are designed to avoid any significant disruption of the ESHA.

...

v. ~~Mitigation~~ Restoration of damaged habitats. Restoration or management measure required to protect the resource. Where feasible, Projects located within or adjacent to environmentally sensitive habitat areas that have been damaged habitats shall be conditioned to require the restoration, monitoring, and long term protection of such habitat areas through a restoration plan and accompanying deed restriction or conservation easement be restored as a condition of development approval. Where previously disturbed but restorable habitat for rare and sensitive plant and animal species exist on a site that is surrounded by other environmentally sensitive habitat areas, these areas shall be delineated and potentially restored considered for restoration as recommended by a restoration plan.

2) Suggested Modification 4

(6) Open space preservation. Pursuant to the purpose of the Critical Viewshed, or SRA to protect significant visual resources, sensitive habitat or watershed open space preservation is a compatible measure ~~to support the approval of new development.~~ Approval of an application for any land



California Coastal Commission

July 2008 Meeting in San Luis Obispo

Staff: J.Bishop Approved by: *C.F.L.*

SLO-MAJ-2-04 Part 3 (CZLUO Amendment) addendum 7.8.2008.doc

~~division, Minor Use Permit or Development Plan (excluding any agricultural accessory building)~~
new development in these scenic coastal areas is contingent upon the applicant executing an agreement with the county to maintain in open space use appropriate portions of the site within the Critical Viewshed, or SRA (for visual protection) ~~that are not intended for development~~. Guarantee of open space preservations may be in the form of public purchase, agreements, easement controls or other appropriate instrument approved by the Planning Director, provided that such guarantee agreements are not to ~~grant~~ provide for public access unless acceptable to the property owner or unless required to provide public access in accordance with the LCP.

3) Suggested Modification 5

- d. Development adjacent to coastal bluffs. Stormwater outfalls that discharge to the bluff, beach, intertidal area, or marine environment are prohibited unless it has been demonstrated that it is not possible feasible to detain the stormwater on-site, or direct the stormwater to pervious land areas or the street, without causing flooding or erosion. In such instances, stormwater outfalls shall include filtration and treatment systems necessary to protect coastal water quality; be screened from public view using underground pipes and/or native vegetation screening of local stock; and receive all necessary applicable agency approvals. Consolidation of existing outfalls shall be pursued where feasible. The drainage plan shall incorporate all reasonable measures to minimize increased erosion to the coastal bluff as a result of development.



TH166

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA***By Fax***

July 3, 2008

California Coastal Commission
C/O Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

Attn: Charles Lester, Senior Deputy Director

Re: Subject: Item 16 b. July 10, 2008 - San Luis Obispo County LCP Amendment No. SLO-MAJ-2-04 Part 3 (Partial CZLUO Update). Public hearing and action on request by San Luis Obispo County to amend multiple sections of the certified LCP implementation plan, including modifications related to identification of environmentally sensitive habitat areas (ESHAs), appeals, visual resources, water quality and drainage, tree removal, energy/solar, roads and bridges, mineral extraction in wetlands, and archaeology; Sections proposed for amendment include 23.01.043c; 23.04.186d3; 23.04.200; 23.04.210; 23.04.220; 23.05.050; 23.05.062; 23.05.110; 23.06.100; 23.06.104; 23.06.106; 23.06.108; 23.07.104c; 23.03.170; 23.07.172; and 23.11.030. (JB-SC)

Dear Dr. Lester:

This firm represents the Friends of Oceano Dunes ("Friends"), a non-profit public benefit corporation, representing approximately 28,000 members and users of the Oceano Dunes State Vehicular Recreation Area located near Pismo Beach, California. On behalf of Friends, we are filing these comments and objections to the various drafts of the LCP Amendment.

Friends joins in and incorporates by this reference the letter, comments and objections filed by the California Department of Parks and Recreation on this same LCP Amendment (filed on or about today's date).

Friends agrees that the matter should be continued to allow all stakeholders an opportunity to study and evaluate the proposed changes. The changes are complex and the Commission's proposal was released literally only days ago.

Any ESHA designation mechanism is presently and continues to be preempted by Public Resources Code § 5090 et seq. for lands within or to be included in Oceano Dunes SVRA regardless whether it is adopted and implemented locally or as a state policy. As a local ordinance it would conflict with the charge of State Parks under § 5090 and as a state policy it would be overridden by Public Resources Code § 30401, which when read with § 5090 et seq., gives State Parks' ultimate authority of these issues within SVRAs.

State Parks is vested with the jurisdiction and responsibility for land use planning and operation on lands within a SVRA. The Off-Highway Motor Vehicle Recreation Act commencing at Public Resources Code Section 5090.01 vests in State Parks jurisdiction over the OHMVR program and directs and authorizes State Parks, through its OHMVR Division, to establish and operate state vehicular recreation areas providing the fullest public use and to protect and conserve sensitive natural resources (Public Resources Section 5090.43 (a)). It is bestowed with extensive and detailed authority regarding what SVRA lands may be closed for environmental protection purposes.

In addition, for the reasons articulated by State Parks, the "unmapped" ESHA approach fails to provide reasonable certainty in the LCP and associated planning process. The proposal for establishing unmapped ESHA will result in lack of specificity in the LCP that conflicts with a core principle that LCPs reasonably detail the kinds, location, and intensity of land uses and applicable resource protection (Public Resources Code §§ 30523 and 30108.5). Its adoption here will likewise create internal inconsistencies in the County LCP and general plan, contrary to state law.

For these reasons, we urge a continuance of the hearing on this matter or a rejection of the LCP amendment as proposed and as proposed to be modified by the Commission staff.

Sincerely,



Tom Roth

Cc: Jim Suty, President, Friends
of Oceano Dunes



State of California • The Resources Agency

Arnold Schwarzenegger, Governor

DEPARTMENT OF PARKS AND RECREATION

Ruth Coleman, Director

Oceano Dunes SVRA
340 James Way, Suite 270
Pismo Beach, Ca 93449
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JUL 03 2008

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

July 3, 2008

California Coastal Commission
C/O Central Coast District Office
Attn: Charles Lester, Senior Deputy Director
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

Via Facsimile to: 831-427-4877

Subject: Item 16 b. July 10, 2008 - San Luis Obispo County LCP Amendment No. SLO-MAJ-2-04 Part 3 (Partial CZLUO Update). Public hearing and action on request by San Luis Obispo County to amend multiple sections of the certified LCP implementation plan, including modifications related to identification of environmentally sensitive habitat areas (ESHAs), appeals, visual resources, water quality and drainage, tree removal, energy/solar, roads and bridges, mineral extraction in wetlands, and archaeology. Sections proposed for amendment include 23.01.043c; 23.04.186d3; 23.04.200; 23.04.210; 23.04.220; 23.05.050; 23.05.062; 23.05.110; 23.06.100; 23.06.104; 23.06.106; 23.06.108; 23.07.104c; 23.03.170; 23.07.172; and 23.11.030. (JB-SC)

Dear Dr. Lester,

On July 1, 2008, California State Parks, Off-Highway Motor Vehicle Recreation Division, Oceano Dunes State Vehicular Recreation Area (ODSVRA) District Office ("State Parks") received a Important Public Hearing Notice pertaining to the above referenced item. On preliminary review of the subject item, State Parks finds that it may have significant implications for its operations at the ODSVRA that require more scrutiny and discussion by and between State Parks, the Coastal Commission, and the County before being adopted for implementation.

Therefore, State Parks submits this letter in order to register its objection to the proposed amendments to the San Luis Obispo County certified LCP implementation plan and the modifications proposed in the Staff Report Th16b prepared June 27, 2008 (for July 10, 2008 hearing). Of particular concern are the proposed amendments pertaining to Environmentally Sensitive Habitats ("ESHA"), although other concerns may be revealed when State Parks has sufficient time to more thoroughly review the material and supporting information. As such, State Parks respectfully requests that the item be

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July 3, 2008
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postponed to allow State Parks, the Coastal Commission, and the County to meet and confer in an attempt to resolve the concerns with the proposed amendments. At the same time, State Parks submits the following with regard to its objection to the proposed action as currently presented.

The proposal for establishing unmapped ESHA will result in lack of specificity in the LCP that conflicts with a core principle in the California Coastal Act that LCPs be sufficiently specific to detail the kinds, location, and intensity of land uses and applicable resource protection (Public Resources Code Sections 30523 and 30108.5). The designation of ESHA results a no-development zone for areas so designated. LCPs, as noted, require sufficient specificity to identify where, the kinds, and intensity of land uses. Under the status quo, LCP's must contain specific identification of ESHA in order to meet the specificity requirement.

As we understand the amendments proposed by the County and the modifications proposed in the Coastal Commission Staff Report, the amendments will not require ESHA to be mapped in the LCP. Instead, at the time of an application for a Coastal Development Permit, the County will be required to establish ESHA for any areas that are not mapped in the LCP, and the Coastal Commission on appeal may consider whether the County properly has designated ESHA or establish ESHA on appeal.

Thus, under the proposed amendments, the LCP need not map ESHA as required by the specificity requirements of the Coastal Act. It is State Parks' view from what we have been able to ascertain from the proposed materials, that a procedure for allowing unmapped ESHA is in direct conflict with the core principal that land use plans and LCP's be sufficiently specific to outline the approved land uses and restrictions, but with sufficient flexibility to allow for minor deviations without recourse to full amendment of the plans. Because the ESHA designation results in a no-development zone, it is not a minor deviation.

Additionally, the proposed amendments do not take into account the interplay between the Coastal Commission, the County, and State Parks and their respective jurisdictions to plan for land uses pursuant to their respective guiding law. The current South County Coastal element of the LCP established as a result of collaboration by and between the County, the Coastal Commission and State Parks the standards and conditions pertaining to the recreational lands under State Parks' jurisdiction and control, including the ODSVRA. The adoption of the proposed amendment to the LCP implementation plan appears to substitute the judgment of the County and the Coastal Commission with regard to the regulation and protection of sensitive resources on State Park lands.

State Parks is vested in statute with the jurisdiction and responsibility for land use planning and operation on lands acquired for state park purposes. See for example Public Resources Code Section 5002.2 establishing the general planning requirements for state park units, including: allowed recreational uses, natural and cultural resource protection, and visitor serving facilities. These general plans together with related

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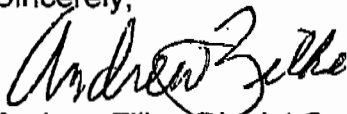
management plans and regulatory controls, establish the conditions and policies that guide state park operations. With regard to the ODSVRA, the Off-highway Motor Vehicle Recreation Act commencing at Public Resources Code Section 5090.01 vests in State Parks jurisdiction over the OHMVR program and directs and authorizes State Parks, through its OHMVR Division, to establish and operate state vehicular recreation areas providing the fullest public use and to protect and conserve sensitive natural resources (Public Resources Section 5090.43 (a)).

The Coastal Act with regard to State Agencies provides that the Coastal Act does not result in conflicts with or supersede the jurisdiction of other regulator state agencies, such as State Parks (Public Resources Code Section 30400 et seq.). It is State Parks' view that it is improper to adopt the amendment to the County's LCP implementation plan in that the amendments fail to specify the procedure for collaborating with State Parks in order to reconcile any perceived conflicts in its operating conditions and resource protection programs with the policies of the Coastal Act.

In closing, State Parks objects to the adoption of the proposed amendments to the County's LCP implementation plan as presented. The item should be put over either by continuance or postponement for a period of time sufficient for the Coastal Commission, the County, and State Parks to meet and confer in an attempt to establish a procedure that provides sufficient specificity with regard to the mapping of ESHA and the interplay with the jurisdiction of State Parks when it carries out its regulatory and management functions, including the identification and protection of sensitive natural resources.

Thank you very much for your consideration in this matter. I may be reached at 805-773-7177.

Sincerely,



Andrew Zilke, District Superintendent
Oceano Dunes District

cc: Mike Wulkan, County of San Luis Obispo
Matt Jannsen, County of San Luis Obispo
Daphne Greene, Deputy Director, Off-Highway Motor Vehicle Recreation Division